IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 3338 of 2005

Between:

M. Gopal, S/o. Venkulu, 40 years, occ:Ex.Conductor, E.No. 201710, R/o. Vattimarthy, Via Narketpally, Nalgonda District.

..... PETITIONER

AND

1 APSRTC, Musheerabad, Hyderabad, Rep by its Managing Director
2 The Depot Manager, APSRTC, Rajendranagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI, quash the impugned Proc.No. 02/95(62)/2004-RJNR dt. 06-12-2004 in deleting the petitioner's name from approved/selection list as arbitrary, unjust in violation of Art. 14, 15 & 21 of the constitution of India, without jurisdiction and also violation of Reg. 12 of C.C. & A Reg. APSRTC 1967 and consequently direct the respondent to reinstate the petitioner into service along with all consequential benefits.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondent Nos1 and 2.: MR.V.T.M.PRASAD (SC for APSRTC)

The Court at the admission stage made the following :

ORDER:

This writ petition is filed to quash the impugned proceedings dated 06-12-2004 in deleting the petitioner’s name from the approved/selection list.

2. The petitioner is working as Conductor in the respondents-Corporation since 28-04-1998 on daily wage basis through due process of selection. The

impugned proceedings dated 06-12-2004 were issued deleting the name of the petitioner from the approved/selection list. The consequence was that, he could not be re-engaged. Hence, the writ petition.

3. The learned counsel for the petitioner contended that not only the petitioner could not be re-engaged as his name has been deleted from the approved list, but also the order itself is stigmatic and it will be difficult for the petitioner to secure any job in future. Without holding any enquiry, the respondents have removed the petitioner allegedly on the ground that he is not suitable for regular appointment.

4. The impugned proceedings show that the petitioner was involved in an operational irregularities case on 06-08-2004 while he was performing duty on Sevice No.109/2, Rt.No.251 K with Bus No.AP 28V 3818 (PHB), by not operating as per schedule i.e., not touching Afzalgung point and by taking turn in front of Afzalgunj Police Station at 20-50 hrs., to come to Depot, via A.G.College, causing inconvenience to the travelling public besides loss to the legitimate revenue to the Corporation.

5. As per the impugned proceedings, serious irregularities have been attributed to the petitioner. Therefore, there is no doubt that this order creates a stigma for the petitioner and it will be difficult for him to come out of this stigma whenever he seeks a job anywhere in future. It is settled that, if an employee is removed by an order of removal simplicitor while he is working on casual basis or on probation, that order cannot be faulted. Even in such situation, where a person is working on casual basis, a daily wager or a probationer, an order of removal if creates a stigma cannot be allowed to sustain. There are number of judgments of the Apex Court on this aspect and this Court need not go into all the judgments. It is also admitted that no enquiry was conducted. Whatever the charges have been levelled against the petitioner in the show cause notice, they were all denied by him in his explanation. Therefore, it was imperative for the respondents to conduct an enquiry. It is also contended by the learned counsel for the respondents that the Corporation rules do not contemplate an enquiry with respect to daily wage workers. That might be so, but it is against the rules of natural justice to punish a person by creating a stigma for him, which would hurt him throughout his life without even conducting any enquiry. Since enquiry has not been conducted and an order has been passed, which

creates a stigma, the impugned proceedings cannot be sustained.

5. For the aforesaid reasons, the Writ Petition is allowed and the impugned proceedings dated 06-12-2004 are quashed. However, the respondents shall be at liberty to proceed with the matter in accordance with law, if they so wish. No costs.

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23-02-2005

To:

1. The Managing Director, APSRTC, Musheerabad, Hyderabad.
2. The Depot Manager, APSRTC Bus Depot, Rajendranagar, Hyderabad.
3. Two C.D.Copies.

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